Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Streamlining Deployment of Small Cell	)	WT Docket No. 16-421
Infrastructure by Improving Wireless	)	
Facilities Siting Policies; Mobilitie, LLC	)	
Petition for Declaratory Ruling	)	

COMMENTS OF GLOBALSTAR, INC.

L. Barbee Ponder IV
General Counsel & Vice President
Regulatory Affairs
Globalstar, Inc.
300 Holiday Square Blvd.
Covington, LA 70433

Regina M. Keeney
Stephen J. Berman
Lawler, Metzger, Keeney & Logan, LLC
1717 K Street NW, Suite 1075
Washington, DC 20006
(202) 777-7700

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I. Introduction and Summary

Globalstar, Inc. ("Globalstar") hereby comments on the Wireless Telecommunications Bureau's December 22, 2016 *Public Notice* regarding the streamlining of small-cell infrastructure deployment by improving wireless facilities siting policies.[1] Following the Commission's December 2016 adoption of rules permitting low-power terrestrial service in Globalstar's licensed mobile satellite service ("MSS") spectrum at 2483.5-2495 MHz, Globalstar plans to deploy a high-density small-cell network in this band. Globalstar believes that its terrestrial operations in this spectrum – which will be devoted exclusively to small-cell architecture – can deliver public interest benefits that are far greater than what otherwise would be expected from a typical ten megahertz band segment. The Commission can advance these public interest benefits by reducing the regulatory obstacles that state, local, and even federal agencies impose on small cell wireless networks. As Chairman Ajit Pai noted last year in announcing his Digital Empowerment Agenda, the Commission should expeditiously foster

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[1] *Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies; Mobilitie, LLC Petition for Declaratory Ruling*, WT Docket No. 16-421, Public Notice, 31 FCC Rcd 13360 (WTB 2016) (DA 16-1427) ("*Public Notice*"); Order, DA 17-51 (rel. Jan. 12, 2017). *See also* Mobilitie, LLC Petition for Declaratory Ruling, *Promoting Broadband for All Americans by Prohibiting Excessive Charges for Access to Public Rights of Way*, WT Docket No. 16-421 (Nov. 15, 2016) ("Mobilitie Petition").

competitive wireless entry and expansion. In particular, Globalstar urges the Commission to use Sections 253 and 332 of the Communications Act of 1934, as amended ("the Act"),[2] to accelerate the deployment of small-cell infrastructure throughout the United States. The Commission should apply these provisions to prevent state and local authorities from effectively prohibiting or limiting the provision of commercial wireless services within their jurisdictions. In addition, the Commission should shorten the "reasonable period" for local review of small-cell siting applications, and should apply Section 253(c) in a manner that ensures that local fees imposed on service providers are fair and reasonable.

II. Globalstar's Satellite Business

Globalstar is a leading provider of global mobile satellite voice and data services. Globalstar is licensed for uplink transmissions (mobile earth stations to satellites) in the Lower Big LEO band at 1610-1618.725 MHz, and for downlink transmissions (satellites to mobile earth stations) in the Upper Big LEO band at 2483.5-2500 MHz.[3] Having invested over $5 billion to develop its global non-geostationary ("NGSO") MSS network, Globalstar uses its constellation of satellites and 24 ground stations on six continents to provide affordable, high-quality MSS to approximately 700,000 customers in over 120 countries around the world.[4]

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[2] 47 U.S.C. §§ 253, 332.

[3] *Application of Loral/Qualcomm Partnership, L.P. for Authority to Construct, Launch, and Operate Globalstar, a Low Earth Orbit Satellite System, to Provide Mobile Satellite Services in the 1610-1626.5 MHz/2483.5-2500 MHz Bands*, Order and Authorization, 10 FCC Rcd 2333 (1995); *see also Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking, 22 FCC Rcd 19733, ¶¶ 8, 18-20 (2007).

[4] Iridium is authorized to share spectrum with Globalstar at 1617.775-1618.725 MHz.

Since initiating commercial MSS in 2000, Globalstar has been dedicated to providing state-of-the-art, mission-critical, and safety-of-life services to consumers, businesses, and governmental and public safety users in remote, unserved, and underserved areas not reached by terrestrial deployments, both in the United States and globally. In addition to individual consumers, Globalstar's customers include entities in government, the military, emergency preparedness, transportation, heavy construction, oil and gas, mining, forestry, and commercial fishing. Globalstar's MSS network provides critical back-up capabilities for public safety personnel during disasters when terrestrial facilities can be rendered unavailable, and public safety entities involved in relief efforts around the world have relied on Globalstar's satellite services after earthquakes, hurricanes, and other disasters. Globalstar's products are used daily for life-saving services, with its SPOT product line having resulted in over 4,850 rescues to date (currently averaging approximately two rescues per day).

In 2013, Globalstar completed the launch of a $1 billion second-generation satellite constellation, and it continues to invest in ground infrastructure upgrades and an expanded line of enterprise, consumer, and government products.[5] Utilizing its second-generation constellation and ground facilities, Globalstar continues to provide the highest voice quality, fastest truly mobile data speeds, and most affordable service in the MSS industry.[6]

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[5] Globalstar launched its second-generation Big LEO satellites in a series of launches from October 2010 to February 2013, and all 24 of these satellites are now in service. In March 2011, the Commission authorized Globalstar's U.S. gateway earth station facilities and mobile earth terminals to communicate with its second-generation Big LEO satellites. *Globalstar Licensee LLC; Application for Modification of Non-geostationary Mobile Satellite Service Space Station License; GUSA Licensee LLC; Applications for Modification of Mobile Satellite Service Earth Station Licenses; GCL Licensee LLC; Applications for Modification of Mobile Satellite Service Earth Station Licenses*, Order, 26 FCC Rcd 3948 (2011) ("*March 2011 Modification Order*").

[6] Globalstar will soon roll-out its next generation SPOT device providing "two-way" messaging capabilities in addition to its tracking and life-saving functions. Other new or upcoming Globalstar products include the next generation of Globalstar's "Sat-Fi" offering:

III. Globalstar's Planned Terrestrial Operations in the 2483.5-2495 MHz Band

On December 23, 2016, the Commission adopted new ancillary terrestrial component ("ATC") rules that will enable Globalstar to use its licensed MSS spectrum at 2483.5-2495 MHz to provide low-power terrestrial wireless service throughout the United States.[7] Globalstar plans to deploy a small-cell network architecture in this band that will support a Time Division LTE (TD-LTE)-based service. Operating in Time Division Duplex mode, Globalstar's TD-LTE small cells and end user devices will transmit on the same channel within the 2483.5-2495 MHz band, thereby eliminating the need for paired spectrum for its service. Globalstar expects that its low-power network will provide mobile and portable broadband services, including voice, data, and text applications, to consumers, residences, commercial and industrial enterprises, public utilities, and government and public safety agencies. This network will operate in a variety of environments across the United States to provide consumers and other customers with high data rates and additional terrestrial broadband capacity, helping to satisfy the public's ever-increasing demand for wireless and mobile broadband.[8] Globalstar's low-power TD-LTE facilities will deliver these services to the same type of end-user equipment commonly used today in macro-

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Sat-Fi is a revolutionary voice and data technology that permits any Wi-Fi enabled device (*i.e.*, smartphones, tablets, laptops, etc.) to communicate over Globalstar's second-generation MSS constellation.

[7] *Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules for the Ancillary Terrestrial Component of Mobile Satellite Service Systems*, Report and Order, 31 FCC Rcd 13801 (2016) ("*R&O*"). *See also Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules for the Ancillary Terrestrial Component of Mobile Satellite Service Systems*, Notice of Proposed Rulemaking, 28 FCC Rcd 15351 (2013).

[8] The Cisco Visual Networking Index currently projects a seven-fold increase in mobile data traffic demand from 2016-2021, creating a need for capacity that cannot be met solely with the addition of new spectrum allocations. Cisco Systems, Inc., *Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021*, Document ID: 1454457600805266, at 3 (Feb. 7, 2017), http://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/mobile-white-paper-c11-520862.html.

cellular mobile networks, including smartphones, tablets, wireless-equipped laptops, and other available consumer devices. Globalstar also anticipates that its low-power TD-LTE service will be heavily utilized for Internet of Things ("IoT") applications, including a wide diversity of Machine to Machine (M2M) and general telematics systems.

Globalstar believes that its planned TD-LTE operations will have an impact on broadband far beyond what would be expected from its 11.5 megahertz band segment at 2.4 GHz. Globalstar's ancillary terrestrial-use spectrum at 2483.5-2495 MHz will be the only commercial wireless band in the world whose terrestrial use is dedicated *exclusively* to TD-LTE small-cell facilities. It expects to deploy a dense network of femto cells, as well as a smaller number of pico cells, at indoor and outdoor locations throughout the United States. These small-cell systems provide unique network capabilities and benefits, as mobile operators and industry observers have increasingly recognized in recent years. Small-cell facilities enable greater frequency reuse and can support far greater capacity and much higher data rates than macro-cellular systems. Given the rarity of new low-band spectrum allocations and the physical issue of self-interference for low-band small cells, wireless carriers are more frequently turning to mid- and high-band small-cell deployments in order to cost-effectively boost network capacity and improve quality of service in high-traffic urban and suburban areas.[9]

Recent industry reports have highlighted the potential public interest benefits of small-cell 5G operations in the United States and around the world. A report from Accenture Strategy projects that in the United States, the deployment of small-cell networks will boost annual gross

[9] Small-cell capacity and data speed advantages are particularly pronounced in bandwidth-constrained urban areas, where buildings and environmental clutter allow robust cellular reuse over very short distances and across both horizontal and vertical dimensions.

domestic product by $500 billion and create approximately 3 million new jobs.[10] Accenture Strategy believes that American cities and local economies will particularly benefit from the deployment of "Smart City" wireless infrastructure, with Smart City solutions for management of vehicle traffic and electrical grids producing $160 billion in benefits and savings through reductions in energy usage, traffic congestion, and fuel costs.[11] In another report, 5G Americas Small Cell Forum explains that, among other things, small-cell architecture will support and can accelerate new commercial applications such as mobile shopping and context-aware marketing, and can play an important role in providing vital communications for emergency response teams after a disaster.[12] It also points to the contribution that small-cell technology will make toward bridging the Digital Divide, by providing a more affordable, flexible way to extend coverage to remote and rural areas and hard-to-reach urban areas throughout the country.[13]

For a number of reasons, Globalstar's small-cell operations at 2483.5-2495 MHz are especially likely to generate the extraordinary public interest benefits described above. Unlike small-cell facilities in other commercial wireless bands, Globalstar's small-cell infrastructure will not have to share spectrum terrestrially with macro-cellular facilities in the same band. Globalstar's terrestrial band will be entirely devoted to low-power small-cell operations, and

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10 Accenture Strategy, *Smart Cities: How 5G Can Help Municipalities Become Vibrant Smart Cities*, at 1, 3 (2017), attached to Letter from Scott Bergmann, Vice President, Regulatory Affairs, CTIA, to Marlene Dortch, Secretary, FCC, WT Docket No. 16-421 (Jan. 13, 2017) ("Accenture Strategy Report"). *See also* IHS Economics & IHS Technology, *The 5G Economy: How 5G Technology Will Contribute to the Global Economy*, at 4, 18-19 (Jan. 2017), https://www.qualcomm.com/media/documents/files/ihs-5g-economic-impact-study.pdf (projecting that the global 5G value chain will generate $3.5 trillion in output and support 22 million jobs in 2035).

11 Accenture Strategy Report at 1-2, 7-9.

12 5G Americas Small Cell Forum, *Small Cell Siting: Regulatory and Deployment Considerations*, Document 190.08.02, at 4 (Dec. 2016), www.5gamericas.org/files/7714/8193/0832/SCF190_Small_cell_siting-final.pdf.

13 *Id*.

there will be no need in this spectrum to make engineering compromises or otherwise account for coexisting macro-cellular systems and associated self-interference limitations. In addition, the propagation characteristics of 2.4 GHz spectrum are particularly well-suited to the operation of densely deployed small-cell facilities. This spectrum supports true mobility, enabling the creation of continuous and interlocking coverage zones, while also providing the targeted coverage and signal confinement necessary for intensive frequency reuse.[14] Given these factors, Globalstar will be able to maximize frequency reuse and spectrum efficiency by deploying low-power facilities at a higher density than seen in any other band. Broadband consumers and other customers will benefit from the additional capacity, higher data rates, and better quality of service provided by this spectrum.

Globalstar also expects to enjoy significant economies of scale as it moves forward with the deployment of its small-cell TD-LTE network at 2.4 GHz, which should benefit the public by helping to lower the cost of consumer devices and services in this band. First, Globalstar will be able to rely on the existing, wide-ranging LTE infrastructure and device ecosystem,[15] and small-cell facilities should be able to utilize the same high-volume, low-cost LTE chipsets as used in ordinary end-user equipment.[16] In addition, Globalstar is authorized to provide MSS at 2483.5-2495 MHz around the world, and it intends to seek terrestrial authority in this spectrum in key

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[14] Globalstar's small-cell facilities at 2.4 GHz will in most cases deliver a higher quality signal to end users than macro-cellular systems. Compared to small cells, macro-cellular signals traverse longer distances and through greater environmental and structural clutter. Small cells are usually far closer to end users and, despite their lower power levels, typically achieve significantly higher signal-to-noise-and-interference ratios and throughput rates.

[15] There are a growing number of TD-LTE operator commitments, deployments, and trials worldwide. By April 2016, 76 TD-LTE networks were commercially launched in 43 countries, with 1.4 million base stations installed.

[16] Given that the LTE standard provides a "roadmap" for long-term development, Globalstar will also have a clear path to continual TD-LTE performance upgrades and service enhancements.

international markets. Globalstar expects that TD-LTE equipment and end-user devices capable of operating at 2483.5-2495 MHz will ultimately be utilized by millions of customers in numerous countries, resulting in economies of scale that reduce ecosystem costs and improve consumer welfare in the United States and globally.

Overall, Globalstar is well positioned to generate significant public interest benefits associated with the emergence of small-cell technology. Globalstar's low-power TD-LTE network will achieve a high level of spectrum efficiency, given the absence of co-channel macro-cellular operations in its band, the propagation characteristics at 2.4 GHz, and favorable economics for LTE equipment and end-user device development in this spectrum. With its dense deployment of femto and pico cells, Globalstar will help meet consumers' need for additional broadband capacity and higher data rates, while contributing to economic growth, innovation by utilities and other businesses, improved public safety, and a narrower Digital Divide.

IV. The Commission Should Promote the Deployment of Small-Cell Infrastructure

As described above, the deployment of small-cell facilities around the United States will yield a host of important public interest benefits. With its dedicated TD-LTE network in the 2.4 GHz band, Globalstar believes that it can play an important part in building this small-cell broadband infrastructure. Like many other wireless industry participants, however, Globalstar is concerned that state, local, and even federal regulatory obstacles may jeopardize or limit these benefits by impeding carriers' deployment. Globalstar agrees with Chairman Pai that "government at all levels too often makes the task harder than it has to be," and it commends the

Chairman for putting forth his vision for resolving these wireless siting issues in his 2016 Digital Empowerment Agenda.[17]

As Chairman Pai proposes, the Commission should promote the development and deployment of small-cell infrastructure throughout the United States. One key to eliminating state and local impediments to wireless build-out, as the Chairman has noted, is for the Commission to use its statutory authority to ensure that local governments do not stand in the way of broadband deployment.[18] In the *Public Notice*, the Bureau seeks comment on how to apply relevant statutory provisions to promote wireless infrastructure deployment while protecting legitimate local interests.[19] Specifically, the Bureau asks whether the Commission should issue a declaratory ruling to clarify any issues addressed in its 2009 and 2014 wireless siting orders,[20] or to fine-tune or modify any prior statutory interpretations in light of current circumstances. In response, Globalstar urges the Commission to apply key statutory provisions – including Sections 253(a) and 332(c)(7)[21] – with the goal of encouraging and accelerating small-cell and other wireless facility deployment around the United States.

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17 *See Remarks of FCC Commissioner Ajit Pai at the Brandery*, "A Digital Empowerment Agenda," Cincinnati, Ohio, at 6 (Sep. 13, 2016), https://www.fcc.gov/document/commissioner-pais-digital-empowerment-agenda ("*Pai Agenda*"). *See also Remarks of FCC Commissioner Ajit Pai on the Need for a Digital Empowerment Agenda at Think Big Partners,* Kansas City, Missouri, at 3 (Oct. 11, 2016), https://www.fcc.gov/document/commissioner-pai-remarks-think-big-partners-kansas-city-mo ("*Pai Remarks*").

18 *See Pai Agenda* at 7; *Pai Remarks* at 3.

19 *Public Notice* at 10.

20 *See Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7) to Ensure Timely Siting Review*, Declaratory Ruling, 24 FCC Rcd 13994 (2009) ("*2009 Declaratory Ruling*"); *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865 (2014) ("*2014 Infrastructure Order*").

21 47 U.S.C. §§ 253, 332(c)(7); *see* Telecommunications Act of 1996, Pub. L. 104-104, §§ 101, 704 (codified at 47 U.S.C. §§ 253, 332(c)(7)). *See also* Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), Pub. L. No. 112-96, 126 Stat. 156, § 6409(a) (2012) (codified at 47 U.S.C. §1455(a)).

A. In Applying Section 253 and 332 Proscriptions Against State and Local Restrictions that "Effectively Prohibit" a Wireless Carrier's Ability to Provide Service, the Commission Should Eliminate Obstacles to Competitive Wireless Entry and Expansion

The plain language of Section 253(a) and Section 332(c)(7) of the Communications Act establish that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity" to provide personal wireless services or other telecommunications services.[22] In interpreting this language, the Commission has previously found that whether a state or locality's actions have the effect of prohibiting the provision of service turns on whether those actions "materially inhibi[t] or limi[t] the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment."[23] The federal courts are divided on the meaning of this statutory language. Some courts place a heavy evidentiary burden on carriers attempting to meet this test; others shift the burden to states and localities if an applicant demonstrates that its proposed deployment represents the least intrusive available siting approach.

In the *Public Notice*, the Bureau asks if the Commission should, as the expert agency, try to reconcile or otherwise resolve the division between U.S. federal circuit courts on this issue.[24] Globalstar urges the Commission to do so by applying these statutory provisions in a manner that eliminates obstacles to competitive wireless entry and expansion. Specifically, the Commission should issue a declaratory ruling consistent with the decisions of the Second, Third, and Ninth Circuits, that an applicant must show only that its proposed facilities are the "least intrusive means" for filling a coverage cap in light of the aesthetic or other values the local authority seeks

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22 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II).

23 *Public Notice* at 10; *California Payphone Association Petition for Preemption*, Memorandum Opinion and Order, 12 FCC Rcd 14191, ¶ 31 (1997).

24 *Public Notice* at 10-11.

to serve.[25] This declaratory ruling will further Chairman Pai's broadband agenda and the important goal of bridging the Digital Divide.[26] If the Commission declines to issue such a ruling, Globalstar believes that state and local authorities will be able to discourage and even prohibit the provision of commercial wireless services, in violation of the Communications Act.

B. The Commission Should Shorten the "Reasonable Period" for Local Review of Small-Cell Siting Applications

In the *Public Notice*, the Bureau asks whether the presumptive deadlines of 90 days for collocation applications and 150 days for all other siting applications in the Commission's *2009 Declaratory Ruling* are appropriate for small-cell siting applications.[27] Globalstar believes that these timeframes are not well-suited to small-cell applications, and that the Commission should adopt tighter deadlines for state and local review of small-cell filings.

As the Bureau points out, small-cell systems can be located on light poles, utility poles, buildings, and other structures on private property and in the public rights of way.[28] As a result, small cells have far less aesthetic impact than macrocells, and raise fewer and less significant issues for local and state agencies. Accordingly, Globalstar believes that a reasonable period for local/state review of individual small-cell siting applications is 45 days for small-cell collocations and 75 days for other individual small-cell applications.

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25 *Id.*

26 In addition to the authority provided to the Commission by Sections 253 and 332, courts have found that Section 706(b) of the 1996 Act empowers the Commission to "take steps to accelerate broadband deployment if and when it determines that such deployment is not 'reasonable and timely,'" and that Section 706(b) "operate[s] as an independent grant of authority to the Commission to 'take steps necessary to fulfill Congress's broadband deployment objectives.'" *Verizon v. F.C.C.*, 740 F.3d 623, 641 (D.C. Cir. 2014); *In re FCC 11-161*, 753 F.3d 1015, 1053 (10th Cir. 2014); 47 U.S.C. § 1302(b).

27 *Public Notice* at 11; *see 2009 Declaratory Ruling* ¶ 45.

28 *Public Notice* at 12.

Given the uniformity in size and appearance of small-cell facilities in many instances, Globalstar agrees with the Bureau that state and local review will be more efficient with consolidated "batch" applications from individual entities for multiple small-cells. Globalstar recognizes, however, that batch filings may require a longer review than previously established for single macro-cell facilities. Accordingly, Globalstar supports the proposal in the *Public Notice* to establish presumptions of 120 days for processing a batch of small-cell collocation requests and 180 days for processing a batch of other small-cell requests.[29] Globalstar suggests that an application contain a minimum of five small-cell facility sites to be considered a "batch" for purposes of this state or local time frame.

With respect to the "shot clock" for state and local review, Globalstar urges the Commission to go further than *Public Notice*'s proposals and take action consistent with Chairman Pai's Digital Empowerment Agenda. Specifically, Chairman Pai pointed out that, today, once the "reasonable period" under Section 332(c)(7) has expired, a carrier's only available remedy is to file a lawsuit and rely on the courts to permit the siting activity to go forward. Globalstar agrees with Chairman Pai that the Commission should "give [its] shot clock some teeth by adopting a 'deemed-grant' remedy."[30] Under this approach, if a state or local government fails to act on a wireless siting application by the end of the relevant period, that application is considered approved and the applicant can move forward with site construction. Globalstar urges the Commission to adopt this ruling in an appropriate proceeding.

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29 *Id*.

30 *Pai Agenda* at 7.

C. The Commission Should Apply Section 253(c) in a Manner that Ensures that Local Fees Imposed on Service Providers are Fair and Reasonable

Section 253(c) of the Communications Act states that "[n]othing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government."[31] In November 2016, Mobilitie filed a Petition for Declaratory Ruling asking the Commission to apply this provision in a way that eliminates unreasonable fees as obstacles to wireless facilities deployment.[32] In response to the *Public Notice*'s request for comment on the Mobilitie Petition, Globalstar fully supports Mobilitie's proposed application of Section 253(c).

Given their *de facto* monopoly control over public rights of way, localities across the United States are often taking advantage of the growing demand for wireless broadband and the resulting need for new infrastructure to impose excessive siting fees on wireless carriers.[33] These fees substantially burden carriers' deployment efforts, a problem that will be particularly severe in the context of small-cell deployment. As Accenture Strategy pointed out in its report,

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31 47 U.S.C. § 253(c).

32 *See* Mobilitie Petition.

33 There are numerous examples of excessive local siting fees. The city planning commission in Ocean City, Maryland, permitted the installation of cell towers only when the carrier at issue offered to pay the city five percent of its revenue, an amount likely as high as $300,000.[33] *See* Shawn Soper, *Ocean City, Company Reach Compromise to Keep Cell Towers Out of Residential Districts*, THE DISPATCH, Jan. 12, 2017, https://www.mdcoastdispatch.com/2017/01/12/ocean-city-company-reach-compromise-to-keep-cell-towers-out-of-residential-districts/. Meanwhile, the City of Albany, New York, proposed a tax on poles that could generate up to $125,000 in revenue per year, while San Francisco, New York, and Phoenix charge up to $4,200 per pole for "prime locations." Jordan Carleo-Evangelist, *Albany Bets on Utility Pole Fee*, THE TIMES-UNION, Oct. 10, 2015, at C1; Memorandum to the San Jose Mayor and City Council at 5 (Nov. 21, 2014), http://sanjoseca.gov/DocumentCenter/View/37953.

"[T]he density of small cells is up to 100 times greater than for macro towers."[34] Each application for the siting of small-cell infrastructure provides states and localities another opportunity to impede deployment.

To remedy this situation, the Commission should establish that state and local governments cannot subject carriers to charges that exceed what is necessary for the state or locality to cover costs imposed by deployment. As Mobilitie argues in its Petition, state and local governments' upfront or recurring fees for the use of rights-of-way that are based on percentages of applicants' gross revenues or other indicia of the value of the use of those rights-of-way frustrate the statutory goals of the Communications Act.[35] The Commission should find that such fees are excessive, unfair, and inconsistent with Section 253(c). State and local fees should be based on the costs of reviewing applications and managing the use of rights-of-way. As the *Public Notice* suggests, such costs could include the expense of monitoring a provider's construction of facilities, ensuring compliance with local building codes and excavation regulation, and verifying liability insurance.[36]

Globalstar also supports Mobilitie's request that the Commission interpret Section 253(c)'s "competitively neutral and non-discriminatory" mandate as requiring that fees imposed on a provider for access to rights of way not exceed the charges that were imposed on other providers for similar access to rights of way.[37] Disparate, discriminatory siting fees could impose unfair competitive disadvantages on new entrants, other carrier categories, or individual

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34 Accenture Strategy Report at 13.

35 Mobilitie Petition at 24-31.

36 *Public Notice* at 13. Mobilitie proposes that recurring charges be limited to "incremental personnel and other costs for monitoring the facilities (for example, to ensure they are maintained in compliance with signage and other requirements)." *Id*. at 14.

37 Mobilitie Petition at 32.

providers, and are inconsistent with the plain language of the statute.[38] To ensure competitive neutrality and fair procedures, the Commission should also require, as requested by Mobilitie, that compensation for the use of rights of way be "publicly disclosed by such government."[39] Upon request, state and local governments should have to disclose the charges they have imposed on all carriers for access to rights of way, including transparent information on how those charges were calculated and what costs they sought to recover.

D. The Commission Should Initiate a Proceeding to Accelerate Wireless Broadband Deployment on Federal Lands

In addition to taking the steps described above with respect to state and local governments, the Commission should initiate a proceeding to accelerate wireless broadband deployment on federal lands, as proposed by Chairman Pai in his Digital Empowerment Agenda. As Chairman Pai stated in his September 13, 2016 speech, "[I]t's time for the federal government to do its part to speed up the deployment of broadband on federal lands."[40] Federal agencies should collect information about federal assets that could be used to aid broadband deployment, and such information should be made available to carriers and providers in a way that respects security and law enforcement interests. Globalstar agrees with Chairman Pai that those federal agencies most frequently involved in broadband construction should adopt their own reasonable shot clocks for reviewing applications and negotiating leases to build on federal lands. At worst, applicants seeking to construct broadband facilities on federal lands should receive an answer within one year. Federal agencies should also minimize and standardize any

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38 For instance, if a carrier were allowed to construct a new tower without having to pay an upfront fee or other charges, a locality's imposition of such a charge on a new entrant would be presumptively discriminatory.

39 Mobilitie Petition at 34-35.

40 *Pai Agenda* at 8.

fees for permits and leasing rights-of-way, and should agree to longer-term leases or easements with renewal expectancies, so that carriers have sufficient certainty to undertake federal land deployments.

V. Conclusion

Globalstar commends Chairman Pai for his issuing his Digital Empowerment Agenda and highlighting the need for reduced state, local, and federal obstacles to wireless infrastructure deployment, including small-cell facilities. With its plans for a dedicated TD-LTE network at 2.4 GHz, Globalstar expects to play an important role in the nationwide deployment of small-cell technology and the realization of enormous public interest benefits. The Commission should build on the Bureau's *Public Notice* by taking the steps necessary to promote the development and deployment of small-cell facilities throughout the United States.

Respectfully submitted,

/s/ Regina M. Keeney

L. Barbee Ponder IV
General Counsel & Vice President
Regulatory Affairs
Globalstar, Inc.
300 Holiday Square Blvd.
Covington, LA 70433

Regina M. Keeney
Stephen J. Berman
Lawler, Metzger, Keeney & Logan, LLC
1717 K Street NW, Suite 1075
Washington, DC 20006
(202) 777-7700

March 8, 2017